

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re TIFFANY W. et al., Persons Coming  
Under the Juvenile Court Law.

B207928  
(Los Angeles County  
Super. Ct. No. CK70849)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

FELIX W.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Jaqueline H.  
Lewis, Juvenile Court Referee. Affirmed.

Kirk Hermann and Felix W., in pro. per., for Defendant and Appellant.

Amir Pichvai for Plaintiff and Respondent.

## INTRODUCTION

Felix W., father of 17-year-old Tiffany W. and 16-year-old Chelsea W., appeals in propria persona from the jurisdictional and dispositional orders of the juvenile court (Welf. & Inst. Code, §§ 300 & 361).<sup>1</sup> Because the evidence supports the juvenile court's findings, we affirm the orders.

## FACTUAL AND PROCEDURAL BACKGROUND

### 1. *Detention*

The Department of Children and Family Services (the Department) received a referral on November 20, 2007, from Tiffany and Chelsea's school of physical and emotional child abuse perpetrated by father. The girls reported that they were afraid to go home because father had hit them the previous Sunday and Monday and they were apprehensive that the abuse would continue as the hitting appeared to be escalating in frequency.

The Department's November 2007 detention report indicated that the children lived with their mother after the parents' 1998 divorce. As mother's mental health deteriorated, so did her care of the girls. It appears that mother stopped feeding the girls and was verbally and physically abusive to them. In 2005, the children were sent to live with father. However, father has become increasingly angry and takes his anger and frustration out on the children by hitting them and calling them derogatory names. Father denied the conduct but admitted hitting Tiffany on her head "a couple times" after she swore at him. According to the girls, father is unhappy with his life and takes it out on them. "He is always criticizing the way I dress, the friends I have, and the way I clean the house. He is impossible to live with. . . . [W]hen I try to talk with him he would just start cussing me out. And now he is hitting. He is mean, verbally abusive and now he is hitting," said Tiffany. The children were afraid of father and afraid of returning home to him as his abuse appeared to be escalating in frequency.

---

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

In December 2007, the Department reported that the girls did not want to meet with the social worker and father because they did not feel comfortable. “ ‘The thought of being in the same room with [father] causes me [Chelsea] to feel stomach pains.’ ” The children “expressed in clear and uncertain terms that they did not want to return home to their father. Chelsea stated, ‘we packed everything so we wouldn’t have to go back home.’ Tiffany said, ‘I wouldn’t mind going back to him if I didn’t have to see him or say anything to him.’ ” Chelsea “used to cry every night,” which weeping father “ ‘sees . . . as a sign of weakness. I have never regarded him as my father.’ ”

Father explained that he meets all of his daughters’ needs; they live in a well-to-do community and go to a good school. The girls were easy and well-behaved until recently when they had become difficult. Father recognized he might have been too strict with his daughters and did not intend to hurt them. He was willing to take parenting classes and undergo counseling. He explained that single parenthood had put him under a lot of stress and he was aware that he expressed anger towards the girls.

The Department found “a definite parent/child conflict that exists within this family.” The Department recommended that the children remain detained because their return to father would be contrary to their welfare.

The Department detained the girls and filed a petition on November 27, 2007. As amended, the petition alleged the physical abuse causing the girls unreasonable pain and suffering and causing them to be afraid of father.<sup>2</sup> (§ 300, subds. (a) & (b).) The petition also alleged in count b-6 that there existed a severe parent-child conflict in that father is unable to safely and adequately parent the children who are afraid of father because of his temper and angry outbursts. The children feel unsafe in his custody and adamantly oppose being returned to father’s care. This parent-child conflict and the children’s refusal to return to father’s care endangers their physical and emotional health and safety and places the children at risk of physical and emotional harm, damage, danger, and

---

<sup>2</sup> The girls’ mother is not a party to this appeal.

physical abuse. (§ 300, subd. (b).) Additionally, after the hearing, the court conformed the petition to proof to allege under section 300, subdivision (c) that Tiffany had on multiple occasions cut her wrists and both Tiffany and Chelsea have engaged in suicidal ideation based on father's consistent verbal abuse, including calling them derogatory names and unreasonably pressuring Tiffany about her dress, grades, and friends. Meanwhile, father has refused to acknowledge or seek treatment for the girls' suicidal ideations and depression.

*2. The evidentiary hearing.*

At the adjudication and disposition hearing, Tiffany testified that she moved into father's house in July 2005. Once father took custody of the children, his relationship with them, which was never strong, deteriorated. Father makes the girls do all the cooking and cleaning and this responsibility makes it difficult for them to finish their homework. He then berates them for their bad grades, their attire, and their social choices. After she moved in with father, Tiffany began having recurring suicidal thoughts and cutting herself with razor blades because of family and social issues. Tiffany feels better after cutting herself.

With respect to the November 20, 2007 incident that triggered the dependency, Tiffany testified that she had skipped school. That night father barged into her bedroom and "brought up all this stuff randomly . . . about friends, school, my whole life. And just how he said I was a piece of shit and a burden." When she swore back at him, father hit Tiffany. Father also threw a book at Tiffany and hit Chelsea when she tried to intervene. When father hit her, Tiffany testified, she became so upset that she ran into the bathroom and started cutting her left wrist with a razor blade. The following day, father called Tiffany "useless and a piece of shit," and threw a book at her. He would hit Tiffany even if she said nothing. Father said he wanted the girls out of his house. He suggested the girls move to a vacant condominium owned by mother.

Tiffany cannot remember how many times she has cut herself, but testified that she started after she moved in with her father in 2005. Cutting makes her feel better.

Tiffany stopped cutting herself when she was removed from father's custody. Tiffany never told father about her self-mutilation, but Chelsea knew.

Chelsea testified she cried every night because of father's yelling and cursing at her and her sister, usually because of her grades and the way she did her chores. She cried in court while testifying about this. By eighth grade she stopped crying, but began feeling tired for no reason and slept a lot. Chelsea testified that although she got used to living with father, her relationship with him has deteriorated over time. She testified that father got angry at her often and would yell and curse at the girls, calling them "piece of shit lowlife [*sic*]," and a "fucking leech." Admitting she never really liked father, Chelsea thought about killing herself on a monthly basis. Chelsea got her best grades after she was removed from father's house.

The children's therapist explained that father's emotional and verbal abuse made Tiffany depressed, angry, and anxious about family, history of trauma and abuse, beyond what is average for a teenager and caused Tiffany to cut herself. The cutting stopped when Tiffany was detained from father's custody. The therapist opined it would be detrimental to return Tiffany to father because of her anger. Tiffany becomes irritable when discussing visits and reunification and becomes "quite emotional" and would cry when discussing family history and her father in general, more so than with the average teenage girl.

As for Chelsea, the therapist explained that father's verbal and emotional abuse caused her "a lot of anxiety" that was manifested by facial twitching, anger, and crying. The twitches would occur during therapy as Chelsea discussed father's conduct. The therapist opined that returning Chelsea to father would increase the child's anxiety. Conjoint counseling was not recommended at the time of the jurisdiction hearing because Tiffany felt manipulated and controlled during sessions. Chelsea becomes "really angry" whenever family visits are discussed. Forcing them into conjoint sessions would make the girls more angry, anxious, and emotionally unstable. The impact on the girls would be significantly greater if they were returned to father's custody.

Relations between father and the children has not improved since the girls' detention. Sunday visits last only 10 to 20 minutes, usually because the parties run out of things to say to each other or because the girls stop talking. Chelsea ran out of one visit crying because father was accusing Tiffany of lying and warned that the girls would become "lowlives [*sic*] and trash" and threatened to disown them. Asked whether, if father's house was nicer than the foster home, she would be happy to go home, Tiffany replied that she would not because "it doesn't matter how big or small the house is, it depends on the people living in it." Chelsea testified she did not want to return to father's house because she did not want to get into fights and be yelled at. Both children expressed anxiety when talking about family visits.

Father testified that when he went abroad to Japan or Taiwan for a week or so each year, he would leave the girls unattended. Father denied swearing at the children stating "if their behavior was really bad I would say 'if you keep going out with a bunch of shit you may end up like one of them.' " Father denied that Tiffany cuts herself explaining that the cutting was a "recent fabrication" and the scars "looked like new to me."<sup>3</sup> He implied that Tiffany fabricated the cutting so she could stay in her foster placement. He insisted that the children's removal was caused by his exercise of lawful discipline of rebellious, disrespectful, and uncontrollable children.

After 11 days of testimony, the juvenile court sustained the count b-6 allegations under section 300, subdivision (b), and conformed the petition according to proof under subdivision (c). The court observed, "This entire trial has been about not dealing with how these children feel or what they've done, thought about, in regards to those feelings, but rather addressing why they have no right to feel that way. [¶] . . . [¶] These girls have been clearly screaming in their own right about their upset, their frustration, their depression, both suicidal ideations and attempts at that, which is cutting her wrists as Tiffany did on multiple occasions. [¶] They have 'lost' their mother to a mental

---

<sup>3</sup> The juvenile court found Tiffany's cut marks to be scarred and not fresh.

institution. They've had a lot to deal with. And yet Mr. W[.] does not seem to believe they have any right to feel anything." The court observed that although it could not count the number of slash marks on Tiffany's wrist, that father had held the child's wrist up in court and called her a liar and ridiculed her. "If that's not abuse, under . . . (c), I don't know what is[]" said the court. The court also found that everyone has tried to explain the problem to father, from the social workers, the caretakers, the children's therapist, and father's own therapist, to the children themselves. But that father does not want to hear and "[h]e doesn't care." Therefore, the risk persists, even more so at the time of the hearing, because despite all of the interventions, the problem has gotten worse. The court declared the children dependents of the court under section 300, subdivisions (b) and (c).

Thereafter, the court found by clear and convincing evidence (§ 361, subd. (c)) that there was a substantial danger to the children's health and safety if they were returned home, and there was no reasonable means to protect them. The court removed the girls from father and placed them under the supervision of the Department. (§ 361.) The court ordered family reunification services and awarded father monitored visitation with the possibility for liberalization. Father appealed.

### CONTENTIONS

Although obscure, it appears that father's contentions are that (1) there is insufficient evidence to support the juvenile court's jurisdictional findings under section 300, subdivisions (b) and (c); (2) the court did not hold a separate dispositional hearing; (3) the allegations in count b-6 do not state a cause of action; (4) the allegations under section 300, subdivision (c) were not filed by a social worker; (5) the addition of the subdivision (c) allegations violated father's due process rights; (6) the children's detention became "illegal beginning 12/13/2007;" (7) the children's original detention in November 2007 was "unfounded" and violated section 319; (8) the children were denied effective representation; and (9) judicial bias denied father a fair hearing.

## DISCUSSION

### 1. *The jurisdictional findings are supported by the evidence.*

At a jurisdictional hearing, “ ‘proof by a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300.’ (§ 355.)” (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 198.)

“ ‘In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is *any substantial evidence, whether or not contradicted*, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact . . . .’ [Citations.]” (*In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214, italics added.) “If there is substantial evidence supporting the judgment, our duty ends and the judgment must not be disturbed. [Citations.]” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

The “circumstances under which the juvenile court is authorized to take jurisdiction of a child are narrowly defined. [Citation.]” (*In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1134.) Subdivision (b) of section 300 authorizes dependency jurisdiction when “[t]he child *has suffered*, or there is a *substantial risk* that the child will suffer, *serious physical harm or illness*, as a result of the failure or inability of his or *her parent . . . to adequately supervise or protect the child*, or the willful or negligent failure of the child’s parent . . . to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent . . . to provide the child with adequate food, clothing, shelter, or medical treatment . . . .” (Italics added.)



There are three elements to the definition under section 300, subdivision (b): “ ‘(1) neglectful conduct by the parent in one of the specified forms [in subdivision (b), such as a parent’s failure to adequately supervise or protect a minor]; (2) causation; and (3) “serious physical harm or illness” to the minor, or a “substantial risk” of such harm or illness.’ [Citation.]” (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

The petition alleged that as the result of “a severe parent child conflict” that father “is unable to safely and adequately parent the children . . . . The children are afraid of father due to his temper and angry outbursts and the children feel unsafe in his custody and adamantly oppose being returned to the father’s care. Said parent child conflict and the minor[’s] refusal to return to their father’s care endangers the [children’s] physical and emotional health and safety and places the children at risk of physical and emotional harm, damage, danger, and physical abuse.” The evidence supports the juvenile court’s finding sustaining the allegations under section 300, subdivision (b).

According to the testimony, father’s parenting style was extremely aggressive and physical: he shouted at the girls, hit them, demeaned them with viciously derogatory name-calling and curses, threatened them with eviction from his home, and required them to do all of the housework. Father admitted repeatedly leaving them unattended while he went abroad to Asia. Father’s conduct created such conflict between him and the girls and instilled in the children such fear of him that they did not want to live with or even visit with him. Chelsea refuses to speak to him. She does not regard father as her father, does not trust him, and feels unsafe around him. Tiffany ceased to obey him. Father’s actions caused such emotional havoc for the children that Tiffany began mutilating herself, Chelsea developed facial tics, and both girls regularly entertained fantasies of killing themselves. Chelsea has become so depressed that she sleeps all day. As their therapist opined, father’s abuse has caused Tiffany depression, anxiety, and anger “over and above the average teenager.” Contrary to father’s contention, his relationship with the children did not improve after they were detained from him. Chelsea is so fearful of

father that she does not choose to speak during visits with him. Father would make Tiffany angry during visits. The relationship between father and his daughters was so dysfunctional that it could fairly be said that the girls had no relationship with him at all. Therefore, the evidence amply supports the juvenile court's finding and order sustaining count b-6 under section 300, subdivision (b).

Father contends that the petition fails to state a cause of action because, as amended in count b-6, it alleges father's inability to "safely and adequately *parent* the children" who are afraid of father as opposed to the subdivision's language of the parent's inability to "adequately *supervise or protect*" the children.<sup>4</sup> But, the evidence shows that father is not protecting the girls (§ 300, subd. (b)); he is doing just the opposite. Father neglects and fails to supervise his children by leaving them alone while he goes to Japan and Taiwan. More important, this household is plagued by physical and emotional violence. " '[C]hildren are affected by what goes on around them as well as what is directly done to them.' " (*In re Heather A.*, *supra*, 52 Cal.App.4th at p. 195, fn. omitted [expert's testimony about "secondary abuse" caused by a child's exposure to domestic violence in the household].) Each daughter here is affected by the bullying, humiliating, and hitting father inflicts on her as well as on her sibling. Such conduct is a form of domestic violence, and domestic violence where children are living is *neglect in the form of failure to protect children from substantial risk of encountering violence and suffering harm from it*. (*Id.* at p. 194.) The petition states a cause of action under section 300, subdivision (b).

As a consequence of our conclusion that the petition states a cause of action and there is substantial evidence to support the juvenile court's findings under section 300, subdivision (b), we need not reach father's myriad challenges to the subdivision (c) allegations. We may affirm a jurisdictional ruling if the evidence supports any of the

---

<sup>4</sup> Father actually argues that "unable" is a much broader concept than the statutory "inability." "Inability" is merely the noun form of "unable."

counts concerning the children. (*In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875-877; *In re Daniel C. H.* (1990) 220 Cal.App.3d 814, 837.)

2. *The evidence supports the removal order under section 361.*

Section 361, subdivision (c) authorizes the removal of a dependent child from his or her parent's physical custody when "[t]here is or would be a *substantial danger* to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody." (§ 361, subd. (c)(1), *italics added.*)

Citing section 358, subdivision (a), father contends that the juvenile court erred in removing the children without first holding a disposition hearing *separate* from the jurisdiction hearing.<sup>5</sup> The contention is unavailing.

Section 358, subdivision (a) reads, "After finding that a child is a person described in Section 300, the court *shall* hear evidence on the question of the proper disposition to be made of the child." (*Italics added.*) Father argues that the court failed to hold a disposition hearing but rather, immediately after finding the jurisdictional facts, removed the children from father's custody. Section 358 *allows* the court to continue the hearing, but there is nothing in that statute that *mandates a separate hearing* for the dispositional findings. (See also Cal. Rules of Court, rule 5.684(g) [after jurisdiction findings are made, juvenile court must proceed to disposition hearing] and rule 5.686 [juvenile court *may* continue disposition hearing].) Rather, the word "shall" employed in section 358, subdivision (a) requires the court to hear evidence relating to the disposition, not to continue the hearing.

Moreover, the juvenile court separately considered the jurisdiction and disposition issues. After making the jurisdictional findings, the juvenile court asked whether anyone

---

<sup>5</sup> Father also cites *In re Fred J.* (1979) 89 Cal.App.3d 168, which is distinguished. That case involved the distinct procedural issues when a supplemental petition is filed. (*Id.* at p. 178.) Those issues are not present here.

wanted to be heard before it proceeded to the disposition. The Department responded that as dispositional evidence, it was offering *the same evidence* it had just introduced in connection with the adjudication. Other than to observe that the children did not want to return to his custody because their placement was more lavish, father offered no additional evidence. To order the juvenile court to hold a new hearing solely to try the dispositional issues, after the same evidence was already adduced during 11 days of testimony over the course of nearly a month, would be a patent waste of judicial resources, an absurdity, and an idle act. We are not obligated to require idle acts. (*In re Vincent S.* (2001) 92 Cal.App.4th 1090, 1093, cert. den. *Stafford v. Los Angeles County Department of Children and Family Services* (2002) 537 U.S. 837; Civ. Code, § 3532.) Nor has father demonstrated how he would have obtained a different result if the disposition hearing had been continued.

3. *There was no error in detaining the children in November and December 2007.*

a. *November*

Father contends that there was no evidence of imminent danger to the children to warrant emergency custody. When a child has been taken into temporary custody, the social worker must immediately investigate the circumstances and the facts surrounding the child's detention and attempt to maintain the child with the child's family and must immediately release the child to the parent's custody *unless* "[c]ontinued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative." (§ 309, subd. (a)(2).) Here, the Department abided by section 309. The Department received a child abuse referral from the girls' school. The social worker immediately investigated and found that father threatened the girls causing them to fear him and refuse to return to his house. Thus, the detaining social worker recommended that the girls be detained for their protection. Placement with mother was not feasible. There being no other family members who would be

appropriate for placement, the Department properly detained them under subdivision (a)(2) of section 309.

b. *December*

Father appears to contend that the girls' detention in December 2007 was illegal because it violated section 319, subdivision (f). Not so.

Under section 319, subdivision (b), the court must hold a hearing and may only order the children's detention from the parent's custody if it determines a prima facie showing has been made that the child comes within section 300, it would be contrary to the child's welfare to remain in the parents home, and there is a substantial danger to the child's emotional state if he or she is returned to the parent. (§ 319, subd. (b).) If the court makes these findings, it removes the child from the parent. (§ 319, subds. (b) & (e).) Under subdivision (f)(1) of section 319, "If the child is not released from custody, the court may order that the child shall be placed in the assessed home of a relative, in an emergency shelter or other suitable licensed place, in a place exempt from licensure designated by the juvenile court, or in the assessed home of a nonrelative extended family member . . . for a period not to exceed 15 judicial days." Here, the facts available at the time of the detention supported it. Eight days after they were detained from custody, the juvenile court ordered the children *removed from* father's custody. The court acted properly.

4. *The conduct of the children's attorney and the juvenile court*

a. *Father has not demonstrated ineffective assistance of counsel.*

Father contends that the children were not effectively represented in these proceedings because their attorney: (1) waived their appearance at the detention hearing; (2) stated that the children were willing to be placed in a different city than father's; (3) never "voiced the children's right to make a statement before placement;" and (4) failed to object when the court allegedly failed to state facts supporting the detention. We disagree.

Nothing in this list of alleged offenses establishes ineffectiveness of the children's counsel. That father does not agree with counsel's choices or the results does not make counsel's representation of the children ineffective. In any event, father has failed to demonstrate how the outcome would have been different had counsel not made these tactical decisions.

b. *Father has not demonstrated juvenile court bias.*

Father contends that the juvenile court was biased against him. As evidence, father asserts that the court: (1) allowed numerous objections to father's examination of witnesses, (2) allowed the Department's attorney to sit face to face with Tiffany when she testified, and (3) attacked father's religious beliefs. No bias is shown.

Reviewing the reporter's transcript, it shows first that the many objections raised during father's examination were prompted by the manner in which father framed his questions. Second, the seating arrangement was prompted by father's intimidating behavior while Tiffany was testifying. During the Department's examination, father, who was sitting almost directly in front of her, interjected "Tiffany when you testify, you need to look at me." Counsel for the Department then reported that "Tiffany experienced some discomfort sitting in that witness box so close to her father. And at least her perception that her father is glaring at her and making her uncomfortable . . . ." The solution the juvenile court fashioned was necessitated by father's conduct of apparently intimidating the witness. Finally, we see no hint from the portion of the transcript father cites, that the court attacked father's religious beliefs. Rather, the court expressed sadness that father quoted Jesus, God, and the Bible and "believ[ed] all of those things that have actually no cal.proof attached to them, because it's a leap of faith," *while at the same time does not believe in the facts his children reveal when they testified they are so depressed they want to commit suicide.* "Chelsea sat there for the first few days of testimony with her head almost in her lap crying. And Mr. W[.] didn't bat an eyelash." It appears that the court was expressing its *dismay* at father's unwillingness to see what was right in front of him. This is not evidence of bias.

DISPOSITION

The orders are affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

ALDRICH, J.

We concur:

KLEIN, P. J.

KITCHING, J.